IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8068 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIJAY H BUCH

Versus

PRESIDENT

Appearance:

1. Special Civil Application No. 8068 of 1992

MR DC SEJPAL for Petitioner No. 1-3

RULE SERVED for Respondent No. 1-2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 30/08/2001

ORAL JUDGEMENT

Vijay H. Buch, Bharat R. Makwana, and Kishore V. Kalera-pettiioner Nos. 1, 2 and 3 have filed this petition praying for a writ of mandamus or direction or order quashing and setting aside the decision of the

respondents for terminating the service of the petitioners and not regularising the services of the petitioners in this behalf. It has been stated in the petition that petitioner No. 1 was appointed as Rojamdar Octroi Clerk on 26.12.1984 of Amreli Nagarpalika, Amreli-respondent No. 2. Petitioner No. 2 was appointed as Rojamdar Octroi Clerk on 1.11.1989 and petitioner No. 3 was appointed as Rojamdar Octroi Clerk on 19.8.1988.

2. It has been stated in the petition that juniors to petitioner No. 1-Vijay H. Buch, namely, Chhagan Vadhasiya, Mahesh Boricha, Harin Bibadiya, Pratap Thakar, Arvind Dhanani, Bharat Ghugherjiya, Mahesh Fafda were regularised on permanent basis. It was further submitted that the petitioner was appointed on 26.12.1984 but one Shri Manubhai Dhandhal who was junior to the petitioner had approached this court to regularise his services vide Special Civil Application No. 6883 of 1992 and this court had by order dated 6.7.1999 directed the Nagarpalika to consider the case of Mr. Dhandhal for regularisation. It has been stated that in pursuance of the above order passed by this court, said Shri Manubhai Dhandhal is regularised by Nagarpalika by order dated 10.9.1999.

3. Mr. Sejpal, learned counsel for the petitioner, has pointed out the order of this court in Spl. C.A. No. 6883 of 1992 (Coram: M.S. Shah, J) on 6.7.1999. It has been stated that in that matter while admitting this petition, this court also granted ad-interim relief restraining the respondents from confirming any daily wager octroi clerk as regular clerk and restraining the respondents from terminating the services of the petitioner as a daily wager. The ad-interim injunction was continued from time to time until further orders.

4. At the hearing of the petition, the learned counsel for the petitioner reiterated the submissions made in the petition and stated that some more junior employees were also regularised in the year 1995 during the pendency of the petition.

5. Though rule was served on the respondents, no affidavit-in-reply has been filed either at the admission stage or at the stage of final hearing. The court, therefore, proceeds with the hearing of the matter on the footing that there is no dispute about the averments of facts made in the petition.

6. The learned counsel for the petitioner states that the petitioners have already made submissions in the

petition. There are about 150 Rojamdar Junior Clerks under the respondents. The respondents have terminated 51 Rojamdar Junior Clerks. The learned counsel for the petitioners submits that the petitioners are also likely to be terminated at any moment and therefore they have approached this court.

7. Considering the fact that the petitioners have been continuously rendering services since 26.12.1984, 1.11.1989 and 19.8.1988 and in view of the fact that the services of junior employees have been regularised in the year 1991-92 and in view of the pursis filed before the Chief Officer, before the Civil Court, it clearly appears that the petitioners have been meted out arbitrary and discriminatory treatment by the respondent Nagarpalika by not even considering the petitioners' case for regularisation. Hence it would be just and proper to consider the petitioners' case for regularisation in light of the observations made in this judgement. In view of the same, I request the respondent-Nagarpalika to consider the case of the petitioners for regularisation within a period of two months from the date of receipt of the writ of this court or a certified copy of this judgement. Since this being the matter of 1992, I hope and trust that the respondents will consider the case of the petitioners sympathetically for regularisation as early as possible.

8. In the result, the petition is allowed. Rule is made absolute. No order as to costs. Direct service is permitted.

(K.M. MEHTA, J)

(pkn)